

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

VICTOR SMITH,

Plaintiff,

vs

9:07-CV-1264

BRIAN FISCHER, et al.

Defendants.

APPEARANCES:

OF COUNSEL:

VICTOR SMITH
Plaintiff, pro se
21 Mill Street
Apt. 3
Sodus, NY 14551

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Attorney for Defendants
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Albany, NY 12224-0341

SHOSHANAH V. BEWLAY, ESQ.
Ass't Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff brought this civil rights action pursuant to 42 U.S.C. § 1983. On February 2, 2009, the Honorable George H. Lowe, United States Magistrate Judge, advised, by Report-Recommendation, that defendant's motion to dismiss be granted, with leave to amend. No objections to the Report-Recommendation were filed. However, plaintiff filed an amended complaint on Feb. 17, 2009.

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

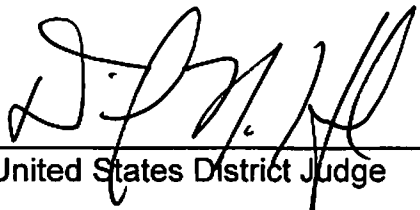
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LAWRENCE K. BAERMAN, CLERK
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Based upon a careful review of entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. 636(b)(1). Accordingly, it is

ORDERED that defendant's motion to dismiss is GRANTED and the complaint is DISMISSED in its entirety.

IT IS SO ORDERED.


United States District Judge

Dated:

March 6, 2009
Utica, New York.